

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

OSSIE LEE SLAUGHTER,

CASE NO. C21-1421JLR

Petitioner,

ORDER

V.

DANIEL WHITE,

Respondent.

I. INTRODUCTION

This matter comes before the court on the report and recommendation of

Magistrate Judge Theresa L. Fricke (R&R (Dkt. # 32)) and *pro se* Petitioner Ossie Lee Slaughter's objections thereto (Obj. (Dkt. # 35)). Magistrate Judge Fricke recommends that the court dismiss Mr. Slaughter's 28 U.S.C. § 2254 habeas corpus petition. (*See generally* R&R; Pet. (Dkt. # 5).) Respondent Daniel White did not file objections or a response to Mr. Slaughter's objections. (*See generally* Dkt.) Having carefully reviewed the foregoing, along with all other relevant documents and the governing law, the court

1 ADOPTS the report and recommendation, DENIES Mr. Slaughter's objections,
 2 DISMISSES Mr. Slaughter's habeas corpus petition with prejudice, and DENIES a
 3 certificate of appealability.

4 **II. BACKGROUND**

5 In his habeas corpus petition, Mr. Slaughter challenges a 2018 Washington State
 6 Department of Corrections disciplinary hearing decision that, he alleges, deprived him of
 7 30 days of good-conduct time and imposed sanctions in violation of the Due Process
 8 Clause of the United States Constitution. (Pet. at 8.¹) He asserts that (1) the disciplinary
 9 hearing officer and hearings escort clerk refused to provide him relevant witness
 10 statements or video of the incident that led to the hearing; (2) he was unable to state a
 11 complete defense because of coercion, interference, interrogation, and interruptions
 12 during the disciplinary hearing process; and (3) his due process rights and equal
 13 protection rights were violated by cumulative error. (*Id.* at 5-8.) Magistrate Judge Fricke
 14 recommends that the court dismiss Mr. Slaughter's petition and hold that Mr. Slaughter
 15 has failed to show that the Washington Court of Appeals either applied federal law in an
 16 objectively unreasonable manner or failed to interpret the factual record in a reasonable
 17 manner when it dismissed Mr. Slaughter's personal restraint petition. (R&R at 5-7; *see*
 18 State Court Records (Dkt. # 17), Ex. 6 (Order of Dismissal, *In re Pers. Restraint of Ossie*
 19 *Lee Slaughter*, No. 79461-2-I (Wash. Ct. App. Mar. 2, 2020)); *Lockyer v. Andrade*, 538
 20 U.S. 63, 73 (2003); 28 U.S.C. §2254(d). Magistrate Judge Fricke further recommends

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¹ The court refers to the page numbers in the CM/ECF header when citing Mr.
 Slaughter's habeas corpus petition.

1 that the court conclude that no evidentiary hearing is required to resolve the petition and
2 deny a certificate of appealability. (R&R at 7-8.) Mr. Slaughter timely filed his
3 objections to the report and recommendation. (Obj.; *see also* 1/13/23 Min. Order (Dkt.
4 # 34) (granting Mr. Slaughter an extension of time to file his objections).)

5 III. ANALYSIS

6 A district court has jurisdiction to review a Magistrate Judge's report and
7 recommendation on dispositive matters. Fed. R. Civ. P. 72(b). "A judge of the court
8 may accept, reject, or modify, in whole or in part, the findings or recommendations made
9 by the magistrate judge." 28 U.S.C. § 636(b)(1). "The statute makes it clear that the
10 district judge must review the magistrate judge's findings and recommendations *de novo*
11 if objection is made, but not otherwise." *United States v. Reyna-Tapia*, 328 F.3d 1114,
12 1121 (9th Cir. 2003) (en banc). Because Mr. Slaughter is proceeding *pro se*, this court
13 must interpret his petition and objections liberally. *See Bernhardt v. Los Angeles Cnty.*,
14 339 F.3d 920, 925 (9th Cir. 2003).

15 The court has thoroughly examined the report and recommendation, Mr.
16 Slaughter's objections thereto, and the balance of the record before it. On *de novo*
17 review, the court finds Magistrate Judge Fricke's reasoning for recommending dismissal
18 of Mr. Slaughter's petition and denial of an evidentiary hearing persuasive, particularly in
19 light of the "highly deferential" standard the court must apply when evaluating decisions
20 of the Washington Court of Appeals. *Cullen v. Pinholster*, 563 U.S. 170, 181 (2011);
21 (*see* R&R at 2-7 (discussing the applicable legal standards and applying them to Mr.
22 Slaughter's petition).) Therefore, the court independently DENIES Mr. Slaughter's

objections for the same reasons Magistrate Judge Fricke set forth in her report and recommendation and ADOPTS the report and recommendation in full.

The court further ADOPTS Magistrate Judge Fricke’s recommendation that the court deny Mr. Slaughter a certificate of appealability. (See R&R at 7-8.) When a district court enters a final order adverse to the applicant in a habeas proceeding, it must either issue or deny a certificate of appealability, which is required to appeal the final order. 28 U.S.C. § 2253(c)(1)(A). A certificate of appealability is appropriate only where the petitioner makes “a substantial showing of the denial of a constitutional right.” *Miller-El v. Cockrell*, 537 U.S. 322, 336 (2003). Under this standard, the petitioner must demonstrate that reasonable jurists could debate whether the petition should have been resolved in a different manner or that the issues presented were adequate to deserve encouragement to proceed further. 28 U.S.C. § 2253; *Slack v. McDaniel*, 529 U.S. 473, 474 (2000). Here, the court agrees with Magistrate Judge Fricke’s conclusion that reasonable jurists could not debate whether Mr. Slaughter’s petition should have been resolved differently and therefore DENIES Mr. Slaughter a certificate of appealability.

IV. CONCLUSION

For the foregoing reasons, the court hereby ORDERS as follows:

- (1) The court ADOPTS the report and recommendation (Dkt. # 32);
- (2) The court DENIES Mr. Slaughter's objections (Dkt. # 35);
- (3) The court DISMISSES Mr. Slaughter's § 2254 habeas petition (Dkt. # 5) with prejudice; and

Dated this 22nd day of February, 2023.

John P. Blunt

JAMES L. ROBART
United States District Judge